



January 22, 2016

HOUSE BILL No. 1028

DIGEST OF HB 1028 (Updated January 20, 2016 3:43 pm - DI 69)

Citations Affected: IC 35-42.

Synopsis: Human and sexual trafficking. Makes it visiting a common nuisance, a Class A misdemeanor, for a person to knowingly or intentionally visit a building, structure, vehicle, or other place with the intent to violate certain laws concerning human and sexual trafficking. Makes it maintaining a common nuisance, a Level 6 felony, for a person to knowingly or intentionally maintain a building, structure, vehicle, or other place that is used one or more times to violate certain laws concerning human and sexual trafficking.

Effective: July 1, 2016.

Truitt, Hale, Lehman

January 5, 2016, read first time and referred to Committee on Courts and Criminal Code.
January 21, 2016, reported — Do Pass.

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Second Regular Session of the 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

HOUSE BILL No. 1028

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 35-42-3.5-1, AS AMENDED BY P.L.168-2014,
2 SECTION 66, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2016]: Sec. 1. (a) A person who, by force, threat of force, or
4 fraud, knowingly or intentionally recruits, harbors, or transports
5 another person:
6 (1) to engage the other person in:
7 (A) forced labor; or
8 (B) involuntary servitude; or
9 (2) to force the other person into:
10 (A) marriage;
11 (B) prostitution; or
12 (C) participating in sexual conduct (as defined by
13 IC 35-42-4-4);
14 commits promotion of human trafficking, a Level 4 felony.
15 (b) A person who knowingly or intentionally recruits, harbors, or
16 transports a child less than:
17 (1) eighteen (18) years of age with the intent of:

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- 1 (A) engaging the child in:
 2 (i) forced labor; or
 3 (ii) involuntary servitude; or
 4 (B) inducing or causing the child to:
 5 (i) engage in prostitution; or
 6 (ii) engage in a performance or incident that includes sexual
 7 conduct in violation of IC 35-42-4-4(b) (child exploitation);
 8 or
 9 (2) sixteen (16) years of age with the intent of inducing or causing
 10 the child to participate in sexual conduct (as defined by
 11 IC 35-42-4-4);
 12 commits promotion of human trafficking of a minor, a Level 3 felony.
 13 Except as provided in subsection ~~(e)~~, **(g)**, it is not a defense to a
 14 prosecution under this subsection that the child consented to engage in
 15 prostitution or to participate in sexual conduct.
 16 (c) A person who is at least eighteen (18) years of age who
 17 knowingly or intentionally sells or transfers custody of a child less than
 18 eighteen (18) years of age for the purpose of prostitution or
 19 participating in sexual conduct (as defined by IC 35-42-4-4) commits
 20 sexual trafficking of a minor, a Level 2 felony.
 21 (d) A person who knowingly or intentionally pays, offers to pay, or
 22 agrees to pay money or other property to another person for an
 23 individual who the person knows has been forced into:
 24 (1) forced labor;
 25 (2) involuntary servitude; or
 26 (3) prostitution;
 27 commits human trafficking, a Level 5 felony.
 28 **(e) A person who knowingly or intentionally visits a building,**
 29 **structure, vehicle, or other place with the intent to violate**
 30 **subsection (a), (b), (c), or (d) commits visiting a common nuisance,**
 31 **a Class A misdemeanor.**
 32 **(f) A person who knowingly or intentionally maintains a**
 33 **building, structure, vehicle, or other place that is used one (1) or**
 34 **more times to violate subsection (a), (b), (c), or (d) commits**
 35 **maintaining a common nuisance, a Level 6 felony.**
 36 ~~(e)~~ **(g)** It is a defense to a prosecution under subsection (b)(2) if:
 37 (1) the child is at least fourteen (14) years of age but less than
 38 sixteen (16) years of age and the person is less than eighteen (18)
 39 years of age; or
 40 (2) all the following apply:
 41 (A) The person is not more than four (4) years older than the
 42 victim.



1 (B) The relationship between the person and the victim was a
2 dating relationship or an ongoing personal relationship. The
3 term "ongoing personal relationship" does not include a family
4 relationship.

5 (C) The crime:

6 (i) was not committed by a person who is at least twenty-one
7 (21) years of age;

8 (ii) was not committed by using or threatening the use of
9 deadly force;

10 (iii) was not committed while armed with a deadly weapon;

11 (iv) did not result in serious bodily injury;

12 (v) was not facilitated by furnishing the victim, without the
13 victim's knowledge, with a drug (as defined in
14 IC 16-42-19-2(1)) or a controlled substance (as defined in
15 IC 35-48-1-9) or knowing that the victim was furnished with
16 the drug or controlled substance without the victim's
17 knowledge; and

18 (vi) was not committed by a person having a position of
19 authority or substantial influence over the victim.

20 (D) The person has not committed another sex offense (as
21 defined in IC 11-8-8-5.2), including a delinquent act that
22 would be a sex offense if committed by an adult, against any
23 other person.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1028, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to HB 1028 as introduced.)

WASHBURN

Committee Vote: Yeas 12, Nays 0

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